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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/872,004

06/04/2001

Hisashi Tanaka

NEC01P071-S1b

3637

30743

7590

05/18/2005

WHITHAM, CURTIS & CHRISTOFFERSON, P.C.  
11491 SUNSET HILLS ROAD  
SUITE 340  
RESTON, VA 20190

EXAMINER

HAQ, NAEEM U

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/872,004

Applicant(s)

TANAKA ET AL

Examiner

Naeem Haq

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

This action is in response to the Applicants' amendment filed February 10, 2005. Claims 1-7 are pending and will be considered for examination. The amendments to claim 5 are sufficient to overcome the rejection under 35 U.S.C. 101. This rejection is hereby withdrawn.

### *Final Rejection*

#### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondoh et al (US 2001/0011239 A1) hereinafter referred to as Kondoh in view of LaJoie et al. (US 5,850,218) hereinafter referred to as LaJoie.**

Referring to claims 1-7, Kondoh teaches a network marketing system, method, computer program, and sever comprising:

- at least one user terminal for being operated by a user that purchases items and having the capability to be connected to a network (Figure 1, items "11" and "12"; ¶ [0046] and [0052]);
- an item database for storing information on items on the market Figure 1, "85"; ¶ [0050]);

- a shopping cart database each associated with each user for storing shopping carts to temporarily save items to be investigated for purchase by a user (Figure 1, "84"; ¶ [0049]); and
- a marketer server connected to said network, for providing said user terminal with item information stored in said item database (Figure 1, item "2"; ¶ [0052]), for adding a particular item to a shopping cart stored in said shopping cart database upon receiving notification from said user terminal to add that item to the shopping cart (¶ [0049]; Figure 2, steps 111-116),
- wherein said user terminal establishes a right to purchase preferentially a particular item when said user saves the item in said shopping cart (¶ [0218]).

Kondoh does not teach that the server presents in series individual items to the user, or a confirmation window as a means for confirming at the user terminal an intention to purchase an individual item (see Applicants' specification page 11, lines 6-15; Figures 6a and 6b), or a button as a means for accepting an application to purchase only those items which can be confirmed (see Applicants' specification page 11, lines 6-15; Figures 6a and 6b). However, LaJoie teaches an equivalent structure (Figure 25, items "494", "496", "498", and "500"; column 29, lines 33-58). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the structure of LaJoie into the invention of Kondoh. One of ordinary skill in the art would have been motivated to do so in order to provide the user with additional information

about a particular item prior to purchase so that the user could make an informed decision, as suggested by LaJoie (Figure 25, item "498").

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection. In addition, the Applicants' amendment now recites "means for..." limitations in accordance with MPEP 2181. Accordingly, the Examiner has given these limitations 112, sixth paragraph weight.

### ***Conclusion***

Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (571)-272-6758. The examiner can normally be reached on M-F 8:00am-5:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on (571)-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Naeem Haq**, Patent Examiner  
Art Unit 3625

May 12, 2005



**WYNN W. COGGINS**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600